

House Bill 315

By: Representatives Cooke of the 18th, Bearden of the 68th, Burns of the 157th, Brockway of the 101st, and McCall of the 30th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding the registration, operation, and sale of watercraft, so
3 as to provide that it shall be a violation of law if a person's alcohol concentration is 0.08
4 grams or more at any time within three hours after operating, navigating, steering, driving,
5 manipulating, or being in actual physical control of a moving vessel, moving water skis,
6 moving aquaplane, moving surfboard, or similar moving device from alcohol consumed
7 before such operating, navigating, steering, driving, manipulating, or being in actual physical
8 control ended; to provide for certain presumptions at trial of such cases; to provide for related
9 matters; to provide an effective date and for applicability; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 SECTION 1.

13 Article 1 of Chapter 7 of Title 52 of the Official Code of Georgia Annotated, relating to
14 general provisions regarding the registration, operation, and sale of watercraft, is amended
15 by revising subsections (a) and (d) of Code Section 52-7-12, relating to operation of
16 watercraft while under influence of alcohol or drugs, as follows:

17 "(a) No person shall operate, navigate, steer, or drive any moving vessel, or be in actual
18 physical control of any moving vessel, nor shall any person manipulate any moving water
19 skis, moving aquaplane, moving surfboard, or similar moving device while:

20 (1) Under the influence of alcohol to the extent that it is less safe for the person to
21 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving
22 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
23 device;

24 (2) Under the influence of any drug to the extent that it is less safe for the person to
25 operate, navigate, steer, drive, manipulate, or be in actual physical control of a moving

26 vessel, moving water skis, moving aquaplane, moving surfboard, or similar moving
27 device;

28 (3) Under the combined influence of alcohol and any drug to the extent that it is less safe
29 for the person to operate, navigate, steer, drive, manipulate, or be in actual physical
30 control of a moving vessel, moving water skis, moving aquaplane, moving surfboard, or
31 similar moving device;

32 (4) The person's alcohol concentration is ~~0.10~~ 0.08 grams or more at any time within
33 three hours after such operating, navigating, steering, driving, manipulating, or being in
34 actual physical control of a moving vessel, moving water skis, moving aquaplane,
35 moving surfboard, or similar moving device from alcohol consumed before such
36 operating, navigating, steering, driving, manipulating, or being in actual physical control
37 ended; or

38 (5) Subject to the provisions of subsection (b) of this Code section, there is any amount
39 of marijuana or a controlled substance, as defined in Code Section 16-13-21, present in
40 the person's blood or urine, or both, including the metabolites and derivatives of each or
41 both without regard to whether or not any alcohol is present in the person's breath or
42 blood."

43 "(d) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged
44 to have been committed by any person while operating, navigating, steering, driving,
45 manipulating, or being in actual physical control of a moving vessel, moving water skis,
46 moving aquaplane, moving surfboard, or similar moving device while under the influence
47 of alcohol, the amount of alcohol in the person's blood at the time alleged, as shown by
48 chemical analysis of the person's blood, urine, breath, or other bodily substance, shall give
49 rise to the following presumptions:

50 (1) If there was at that time an alcohol concentration of 0.05 grams or less, it shall be
51 presumed that the person was not under the influence of alcohol, as prohibited by
52 paragraphs (1), (2), and (3) of subsection (a) of this Code section;

53 (2) If there was at that time an alcohol concentration in excess of 0.05 grams but less
54 than 0.08 grams, such fact shall not give rise to any presumption that the person was or
55 was not under the influence of alcohol, as prohibited by paragraphs (1), (2), and (3) of
56 subsection (a) of this Code section, but such fact may be considered with other competent
57 evidence in determining whether the person was under the influence of alcohol, as
58 prohibited by paragraphs (1), (2), and (3) of subsection (a) of this Code section;

59 (3) If there was at that time an alcohol concentration of 0.08 grams or more, it shall be
60 presumed that the person was under the influence of alcohol, as prohibited by paragraphs
61 (1), (2), and (3) of subsection (a) of this Code section; and

62 (4) If there was at that time or within three hours after operating, navigating, steering,
63 driving, manipulating, or being in actual physical control of a moving vessel, moving
64 water skis, moving aquaplane, moving surfboard, or similar moving device from alcohol
65 consumed before such operating, navigating, steering, driving, manipulating, or being in
66 actual physical control ended an alcohol concentration of ~~0.10~~ 0.08 or more grams, the
67 person shall be in violation of paragraph (4) of subsection (a) of this Code section."

68 **SECTION 2.**

69 This Act shall become effective upon its approval by the Governor or upon its becoming law
70 without such approval and shall apply to all violations occurring on and after such date.

71 **SECTION 3.**

72 All laws and parts of laws in conflict with this Act are repealed.